

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ZOE INEZ MAHSEELAH,

Defendant.

CR 22-41-M-DWM

FINDINGS AND
RECOMMENDATION

Before the Court is a petition alleging Defendant Zoe Inez Mahseelah violated conditions of her supervised release. By Order entered October 27, 2023, United States District Judge Donald W. Molloy referred this matter to the undersigned to conduct a final revocation hearing. The Court conducted the hearing on November 7, 2023.

The petition filed in this case asserts Mahseelah committed one violation of her conditions of release. First, it alleges that on September 21, 2023, Mahseelah submitted a urine specimen that tested positive for methamphetamine, in violation of Mandatory Condition Number 3 prohibiting unlawful use of a controlled substance. Mahseelah admitted to her probation officer that she had used methamphetamine on September 16, 2023, and signed an admission form

acknowledging the use. The petition further alleges that on September 29, 2023, Mahseelah submitted a urine specimen with Compliance Monitoring Services which returned positive for methamphetamine, in violation of Mandatory Condition Number 3 prohibiting unlawful use of a controlled substance. On October 4, 2023, laboratory reports were received from Abbot Toxicology confirming the sample was positive for the presence of methamphetamine.

At the final revocation hearing held on November 7, 2023, Mahseelah appeared with counsel and admitted to the violation alleged in the petition. Based on Mahseelah's admissions to the allegations in the petition, the Court finds by a preponderance of the evidence that Mahseelah violated Mandatory Condition Number 3 of her supervised release as alleged in the petition.

The United States, Mahseelah's counsel, and Mahseelah were each given an opportunity to address the Court as to their recommendations and requests for an appropriate sentence and disposition of the petition. Having considered the record in this case, and the evidence and arguments presented at the revocation hearing,

IT IS RECOMMENDED that the District Court revoke Mahseelah's supervised release, that Mahseelah be sentenced to time served, and that she be placed on supervised release for a term of 36 months.

IT IS FURTHER ORDERED that Mahseelah be released from custody subject to the conditions identified herein, pending the District Court's review of this Finding and Recommendation.

While on supervised release, the defendant shall not commit any Federal, state, or local crime, and shall not possess a controlled substance. The defendant shall be prohibited from owning, using, or being in constructive possession of firearms, ammunition, or other destructive devices while on supervision and any time after the completion of the period of supervision unless granted relief by the Secretary of Treasury. The defendant shall cooperate in the collection of DNA as directed by the United States Probation Officer.

In addition, the defendant shall comply with the standard conditions of supervised release as recommended by the United States Sentencing Commission, and which have been adopted by this Court. The defendant shall also comply with the following special conditions:

<u>Condition</u>	<u>Condition Description</u>
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| 1 | You must participate in an outpatient program for mental health treatment as approved by the probation officer. You must remain in the program until you are released by the probation officer in consultation with the treatment provider. You must pay part or all of the costs of this treatment as directed by the probation officer. |
| 2 | You must abstain from the consumption of alcohol and must not enter establishments where alcohol is the primary item of sale. You must not knowingly enter any dwelling or house where there is the active or ongoing use, abuse or consumption of alcohol or controlled substances |

and must not knowingly enter or stay in any dwelling or house where there is one or more persons who are consuming alcohol or participating in the consumption of alcoholic beverages or controlled substances, without the prior written approval of the supervising probation officer. You must not knowingly enter any automobile where a person possesses or is consuming alcohol or controlled substances. You must not have any controlled substances that are not prescribed by a licensed medical doctor and supplied by a licensed medical pharmacy.

- 3 You must submit your person, residence, place of employment, vehicles, and papers, to a search, with or without a warrant by any probation officer, or by any law enforcement officer upon the express direction of the probation officer, with reasonable suspicion concerning a violation of supervision or unlawful conduct. Failure to submit to search may be grounds for revocation. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. You must allow seizure of suspected contraband for further examination.
- 4 You must abstain from the consumption of alcohol and are prohibited from entering establishments where alcohol is the primary item of sale.
- 5 You must participate in substance abuse testing to include not more than 180 urinalysis tests, not more than 180 breathalyzer tests, and not more than 36 sweat patch applications annually during the period of supervision. You must pay part or all of the costs of testing as directed by the probation officer.
- 6 You must participate in and successfully complete an outpatient program of substance abuse treatment as approved by the probation officer. You must remain in the program until you are released by the probation officer in consultation with the treatment provider. You must pay part or all of the costs of this treatment as directed by the probation officer.
- 7 You must not purchase, possess, use, distribute or administer marijuana, including marijuana that is used for recreational or medicinal purposes under state law.
- 8 You must not possess, ingest or inhale any psychoactive substances that

are not manufactured for human consumption for the purpose of altering your mental or physical state. Psychoactive substances include, but are not limited to, synthetic marijuana, kratom and/or synthetic stimulants such as bath salts and spice.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to these Findings and Recommendations within 14 days of the date it is served as indicated on the Notice of Electronic Filing. The District Judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made, and may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the District Judge, and may waive the right to appear and allocute before the District Judge.

DATED this 7th day of November, 2023.



Kathleen L. DeSoto
United States Magistrate Judge